

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF DESIGNATING )	
THE BANCROFT-LUND GROUND WATER )	ORDER
MANAGEMENT AREA )	
_____ )	

This matter having come before the Director of the Idaho Department of Water Resources as a result of concern over the effect of additional ground water pumping on the availability of water to existing wells and senior water rights from the Bear River drainage, the Director Finds, Concludes and Orders as follows:

**FINDINGS OF FACT**

1. The Director of the Department of Water Resources has the responsibility to administer the use of ground water in the state of Idaho to protect prior surface and ground water rights and yet allow full economic development of the resource in the public interest.

2. There is an interrelationship between ground water levels in an area between Bancroft and Grace, Idaho, sometimes referred to as the Bancroft-Lund area and flows of the Bear River and in springs discharging into the Bear River. Diversion of ground water from wells can deplete the surface water flow in springs and the Bear River. New ground water uses can also deplete available supplies for other ground water users.

3. There are a number of Applications for Permit to Appropriate Water pending before the Department which propose additional consumptive uses of ground water within the Bancroft-Lund area.

4. Injury will occur to prior surface and ground water rights if the flows of streams, rivers and ground water underflow in the Bancroft-Lund area are reduced by junior priority ground water diversions.

**CONCLUSIONS OF LAW**

1. Conditions in the Bancroft-Lund area are approaching the conditions of a critical ground water area. The reduction of surface water flow and unavailability of ground water to owners of certain wells are the basis for this conclusion.

2. Section 42-226, Idaho Code, declares all ground waters

to be the property of the state, whose duty it is to supervise the appropriation and allotment of the same. One of the goals is to assure that early appropriations of ground water are protected in the maintenance of reasonable ground water pumping levels.

3. In order to determine whether withdrawals from the existing and proposed wells will have an adverse impact on prior water rights diverted from surface water and/or ground water, the construction and use of additional wells in the area must be monitored and controlled.

4. Section 42-233b, Idaho Code, authorizes the Director of the Idaho Department of Water Resources to designate "ground water management areas" to allow increased management of the ground water resources. Water users may be required to gather diversion data and report withdrawals of ground water. Withdrawal of water may also be curtailed on the basis of priority if the supply is insufficient to satisfy water right demands.

5. The Director of the Department of Water Resources should designate a ground water management area for geographic area near Bancroft and Grace, Idaho.

#### ORDER

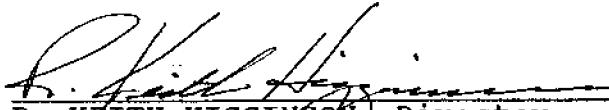
NOW, THEREFORE IT IS HEREBY ORDERED that the following described area be included within and designated as the "Bancroft-Lund Ground water Management Area" pursuant to the provisions of Section 42-233b, Idaho Code:

Starting at the point of beginning at the SW corner of Section 7, T9S, R41E, B.M. Thence, northeasterly along the ridge between Upper Valley and Alexander to the NE corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 27, T8S, R41E, B.M. Thence, due west to the NE corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 29, T8S, R41E, B.M. Thence, northwesterly along the topographic divide of the Soda Springs Hills to the south boundary of Section 12, T8S, R40E, B.M. Thence, due west to the SW corner of Section 12, T8S, R39E, B.M. Thence, due north to the NW corner of Section 1, thence west to the NW corner of Section 5, thence due south to the intersection of the section line with the North Canyon Road (approximately at the SW corner of Section 17), all within T8S, R39E, B.M. Thence, up the North Canyon Road to its intersection with the Bannock County-Caribou County line in the NE $\frac{1}{4}$ , Section 26, T8S, R38E, B.M. Thence, southeasterly along the county line to the south boundary of Section 36, T8S, R38E, B.M. Thence, due east along the county line to the west boundary of Section 6, T9S, R39E, B.M. Thence, due south along the county line to the SW corner of Section 7, T9S, R39E, B.M. Thence, southeasterly along the Fish Creek Range ridge to its intersection with the north boundary of Section 25, T10S, R39E, B.M. Thence, east to the SW corner of Section 21, T10S, R40E, B.M.

Thence, north to the intersection of the Bear River within the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 21. Thence, northeasterly along the west boundary of the Bear River to the center of Section 18, T9S, R41E, B.M. Thence, northwest to point of beginning.

Attached to this order is a map identified as Attachment 1, which graphically shows the boundaries of the management area.

Dated this 21<sup>st</sup> day of OCTOBER, 1991.

  
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R. KEITH HIGGINSON, Director  
Idaho Department of Water Resources

## MANAGEMENT POLICY

### FOR

#### THE BANCROFT-LUND GROUND WATER MANAGEMENT AREA

##### I. GENERAL

###### A. Introduction

The Bancroft-Lund Area is located in southeastern Idaho wholly within Caribou County. Within its boundaries are ground water which contributes to river systems, the Bear River, which flows south towards Utah, and the Portneuf River, which flows northeasterly out of the basin.

###### B. Geohydrologic Characteristics of Bancroft-Lund Area

Surface water of the Bear River and ground water within the Bancroft-Lund area are interconnected. Diversion and use of ground water will impact water supplies in the Bear River. Diversion of ground water within the Bancroft-Lund area reduces spring flows in Black Canyon, and also reduces the level of the water in wells within the area. Some of these wells, located against the west Fish Creek range, intercept thin layers of water bearing strata which are depleted when increasing quantities of water are withdrawn from the general Bancroft-Lund aquifer. Approximately 16 applications for permit to appropriate ground water within the Bancroft-Lund area are pending. Protests have been filed with the Department against some of these applications. Complaints have also been lodged that continued granting of permits to develop new ground water uses is interfering with prior surface and ground water rights.

##### II. STATUTORY REQUIREMENTS AND AUTHORITIES

- A. Section 42-226, Idaho Code, declares all ground water to be the property of the state, and charges the state with supervising the appropriation and allotment of the same. One of the purposes of this is to assure that early appropriators of ground water are protected in the maintenance of reasonable ground water pumping levels.
- B. Section 42-233b., Idaho Code, authorizes the Director of the Department of Water Resources to designate a "Ground Water Management Area" when the water supply in

the area may be approaching conditions which could lead to designation as a critical ground water area.

- C. Section 42-237 a.g., Idaho Code, empowers the Director to prohibit or limit the withdrawal of water from any well during the period that he determines that water to fill any water right is not available.
- D. Policy 1F of the State Water Plan adopted by the Idaho Water Resource Board and approved by the Governor and the Legislature provides that "It is the policy of Idaho that where evidence of hydrologic connection exists between ground and surface water, they be managed as a single resource."

### III. MANAGEMENT POLICY

Management policies which could be used in connection with future use of water in the Bancroft-Lund area include the designation of all or a portion of the drainages of a ground water management area, critical ground water area or to issue a moratorium on additional permits for development.

The designation of a ground water management area for the Bancroft-Lund area is a preferred management policy. Under this policy, additional approvals of ground water for consumptive uses can be granted upon a showing by the applicant and a determination by the Department that the water supply is adequate and other water rights will not be injured. After water rights in the basin are determined in the Bancroft-Lund adjudication, and a method for co-regulation of surface and ground water rights has been determined, the Director may require record keeping and reporting and may also issue orders if needed to reduce or stop ground water diversions.

This management policy allows the processing of all pending filings. Most consumptive use applications will be denied unless the applicants can demonstrate there will be no injury or can provide acceptable mitigation to prior rights.

The Department will continue to consider the approval of applications for permit which propose non-consumptive uses, municipal uses, stockwater and domestic uses as defined in Section 42-111, Idaho Code. Domestic uses meeting the definition of Section 42-111, Idaho Code, are not subject to the application for permit filing requirements of Section 42-229, Idaho Code.

Section 42-111, Idaho Code, defines "domestic uses" as

- A. The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in

connection therewith, including irrigation of up to one-half ( $\frac{1}{2}$ ) acre of land, if the total use is *not* in excess of thirteen thousand (13,000) gallons per day, or

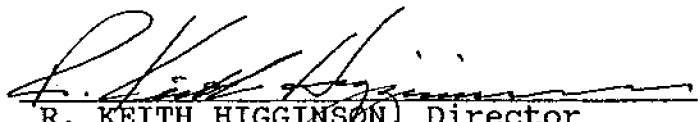
- B. Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

For purposes of this management policy, applications for ground water permits seeking water for multiple ownership subdivisions or mobile home parks will be considered provided each unit satisfies the definition for the exception of need to file an application for permit as described above.

While an incorporated city has wide latitude under state law to beneficially use its water rights for municipal purposes, any new large consumptive use within the municipal limits, such as irrigation of lands not associated with a dwelling, or irrigation of more than one-half acre associated with a dwelling, must be mitigated by the municipality.

The Department will continue to accept and process new applications for permit and applications seeking amendment or transfer of existing water rights. Applications for amendment or applications for transfer which propose a change in the point of diversion from outside the ground water management to within the area which would directly or indirectly result in the irrigation of new land will be treated as a proposed new appropriation of water.

Dated this 21<sup>st</sup> day of October, 1991.

  
R. KEITH HIGGINSON, Director  
Idaho Department of Water Resources